HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No.2852 of 2006

PETITIONER Adya Singh, aged about 50 years, Under Ground Loader, R/o Q.No.169, Shanti Nagar, Rajnagar, Colliery, Hasdeo Area, District Anuppur(MP)

Versus

RESPONDENTS

1. South Eastern Coalfields Limited, Through its Chairman-cum-Managing Director, Seepat Road, Bilaspur(CG) 495006
2. Chief General Manager, South Eastern Coalfields Limited, Hasdeo Area, District Manendragarh(MP)
3. The Sub Area Manager, South Eastern Coalfields Ltd., Rajnagar re-organization Hasdeo Area, District Manendragarh(MP)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Presence :

Shri R.Mukhopadhyay, counsel for the petitioner.

Shri P.S.Koshy, counsel for the respondents.

ORAL ORDER
(21.11.2007)

SUNIL KUMAR SINHA, J.

Heard.

Learned counsel for the petitioner submits that the petitioner was born at village –Vartha, Post Raipur Chobe, District Deoria(UP) on 29.1.1956. He was appointed as Underground Loader in Rajnagar Colliery on 2.3.1977. The petitioner has studied up to High School standard and the copy of mark sheet of High School Examination has been filed as Annexure P-2. The petitioner has also filed the copy of Character Certificate and Transfer Certificate, issued by the Principal, Panchayat Inter College, Deoria vide Annexures P-3 & P-4. He submits that in the Character Certificate, date of birth of the petitioner has been mentioned as 29.1.1956 and in transfer certificate also, date of birth of the petitioner has been recorded as 29.1.1956. He further submits that due to some

mistake, date of birth of the petitioner has been recorded as 2.3.1948 in his service records in possession of the respondents, therefore, apparently, there is a dispute regarding date of birth of the petitioner, who is working with the respondents and the petitioner has to file this petition for a direction to the respondents to correct the date of birth of the petitioner as 29.1.1956.

Return has been filed on behalf of the respondents.

Along with other objections, the respondents have mainly contended that in all service records available with the respondents, date of birth of the petitioner is mentioned as 2.3.1948 and relevant service records bear the signatures of the petitioner, therefore, there is no necessity of interference by this Court and the petition should be dismissed on the basis of particulars of the service records of the petitioner. Copies of relevant pages of service book has also been filed along with the return.

I have heard learned counsel for the parties at length and have also perused the contents of the writ petition as well as the return.

Admittedly, date of birth of the petitioner has been recorded as 2.3.1948 in the service records filed along with the return of SECL and there is no factual dispute about such existence of entry in the service records.

A perusal of the records filed along with the writ petition would show that in Annexure P-3, which is the Character Certificate, issued by the concerned Principal in the year, 1974, date of birth of the petitioner has been entered as 29.1.1956. Likewise, in Annexure P-4, which is the copy of Scholar's register and the transfer certificate also, date of birth of the petitioner is entered as 29.1.1956, therefore, there appears to be a dispute in the date of birth of the petitioner.

A perusal of Annexure P-1, which is the copy of implementation/instruction No. 76, would show that a procedure has been laid down for review determination of date birth in respect of the existing employees.

That means if some dispute is raised about the date of birth that has to be resolved by the employer in accordance with the

procedure for determination/verification of the age of the employee as per implementation/instruction No.76.

This legal position is not disputed by learned counsel for the respondents also.

I have gone through the contents of Annexure P-1.

After hearing learned counsel for the parties, I am of the opinion that this is a fit case, in which, the employer may be directed to get the controversy resolved under the provision of implementation/instruction No.76 and to have a review determination of the date of birth of the petitioner, who is admittedly in their employment.

Therefore, this petition is allowed. The respondents are directed to refer the matter of the petitioner to the age determination committee as per the procedure laid down in implementation/ instruction No.76.

It is stated that according to the SECL, the petitioner is to retire on 31st March, 2008, therefore, it is directed that the controversy regarding age of the petitioner shall be resolved within a period of 3 months from today, so that the result can be obtained prior to the date of retirement of the petitioner.

There shall be no order as to costs.

Sd/-
Sunil Kumar Sinha
Judge

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